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Turkey

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British Protection in the Ottoman Dominions.

Foreign Office to Consul Borg.

(No. 2.)

Sir, *Foreign Office, January* 23, 1890.

YOUR despatch No. 15 of the 21st September last, inclosing a Return of all persons registered at Her Majesty's Consulate at Cairo, has been received.

The preparation of this voluminous Return must have entailed upon you great labour, and I am directed by the Marquis of Salisbury to convey to you his appreciation of the care with which it has been drawn up.

You are authorized to charge the amount of expenses which you have incurred, viz., 3*l.* 10*s.* 8*d.*, in your next quarterly account.

I will now proceed to deal with the various questions upon which you request instructions.

1. You state that it has been the practice at Cairo to regard the children of naturalized British subjects as entitled to British protection during their minority, and to protect them accordingly; and you inquire whether such persons upon reaching the age of 21 should, upon their application, be registered as naturalized British subjects.

In reply, I am to state that such applicants should in every case be required to furnish information upon the following points:—

(1.) The date of their birth, and whether it took place before or after their father's naturalization;

(2.) The place of their birth, whether in Her Majesty's dominions or abroad;

(3.) Whether, during infancy, the child was resident in the United Kingdom with his father, being a naturalized British subject, or mother (being either the widow of such naturalized British subject, or having herself become naturalized during widowhood);

(4.) Whether the father has been naturalized in the United Kingdom or in a British Colony, since the effects of naturalization in a British Colony do not extend beyond the limits of that particular Colony.

Children of a naturalized British subject, born out of Her Majesty's dominions, either before or after the naturalization of the parent, are to be deemed naturalized British subjects if, during infancy, they became resident in the United Kingdom with their father, being a naturalized British subject, or with their mother, being the widow of such naturalized British subject, or having herself become naturalized during widowhood. If they did not become so resident, they remain aliens.

Such children of a naturalized British subject as are born in Her Majesty's dominions, either before or after the naturalization, are, like all other children so born, natural-born British subjects, which status they retain everywhere, except (1) in the case where, at the time of their birth, they became, under the law of any foreign State, subjects of such State, and have subsequently, as regards their British nationality, made a declaration of alienage, in the manner provided by section 4 of "The Naturalization Act, 1870;" or (2) in the case where they have "voluntarily become naturalized" in a foreign State, under the provisions of section 6 of the same Act.

In both these cases they cease to be British subjects.

As regards the national status of women, according to English law a married woman is deemed to be a subject of the State of which her husband is for the time being a subject;

and upon the death of her husband, a widow, being a natural-born British subject, but having become an alien by or in consequence of her marriage, continues to be deemed an alien; but she may obtain a certificate of readmission to British nationality at any time during widowhood in the manner provided by the Naturalization Act of 1870, sections 10 (2) and 8.

2. With reference to the British-protected persons included in the Return, you inquire whether such protection should be continued, and, if so, on what terms.

Upon this point I am to furnish you with the following general instructions for your guidance, and if, after their receipt, you should still be in doubt as to any particular case, you are at liberty to refer it to this Office for decision.

Every person born within Her Majesty's dominions is a natural-born British subject, and is, so long as he or she remains a British subject, entitled, as such, to British protection abroad.

A natural-born British subject can only cease to be a British subject (1) by making a declaration of alienage, under the circumstances contemplated by section 4 of the Act of 1870; or (2) by "voluntarily becoming naturalized in a foreign State," as provided by section 6 of the same Act.

But the children of foreign parents, although born within Her Majesty's dominions, cannot be protected by Her Majesty's Government in the country of their father's nationality unless they have become legally divested of such nationality as they derived from their father; so long, however, as they remain British subjects, they will be so protected elsewhere.

Natives of the Ionian Islands are no longer entitled to British protection, such protection having been withdrawn after the cession of those islands to Greece in 1864, by Circular dated the 2nd June of that year.

Natives of British-protected territory are British-protected persons, and as such are entitled to British protection.

Protection may also, in accordance with the practice followed in the Ottoman dominions, be extended to a limited extent to foreigners or to Turkish subjects in the service of a British Consulate; but, as a rule, such protection ceases with the cessation of the service in respect of which it has been enjoyed, and it is thought most desirable that the grant of British protection to persons who are not British subjects should be discouraged as much as possible.

The wife and infant children of an Ottoman subject who is under British protection by reason of his being in the service of a British Consulate, are also entitled to British protection during the continuance of the service in respect of which the husband or father is protected; but, upon the cessation of such service, through his death or otherwise, they cease to be entitled to protection.

With regard to the protection of British Indian subjects or protected persons, you should bear in mind that, by the Turkish Law of the 19th January, 1869, children of Turkish subjects are now, whether born within or without the Ottoman dominions, held to be Turkish subjects; and that, as the Turkish Circular of the 26th March, 1869, expressly stated that the above Law was not to have a retrospective effect, British Indian subjects or protected persons of Turkish origin, who have been registered at British Consulates in the Ottoman dominions prior to the passing of the above Law, are on a different footing within the Ottoman dominions to those who have been registered since that date, and are entitled to British protection.

With regard to the latter, it was decided in 1887, in view of the attitude of the Turkish authorities, that it would be better to defer any general examination into all questions of disputed nationality, and to deal only with each case as it might arise.

3. You inquire whether protection should be extended to parties who may apply for registration on the strength of certificates granted to them by British Consulates in Syria or elsewhere as British-protected persons.

In reply, I am to state that there is no objection to such a course, provided that care be taken to ascertain as far as possible whether the certificate has been properly obtained, and whether or not the protection once granted has been withdrawn.

The mere change of residence does not affect the status of a protected person, unless he has obtained protection through serving in a British Consulate, when, as has been already pointed out, the protection afforded to him or to his immediate family will cease with the cessation of such service.

In connection with this subject, I have to call your attention to the Regulations framed in 1885, in regard to the measure of protection to be granted to the descendants of Russian Jews who in 1849 were placed under the protection of Her Majesty's Consular officers in Syria.

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Turkey

British Protection in the Ottoman Dominions.

Foreign Office to Consul Borg.

(No. 2. Treaty.)

Foreign Office, April 21, 1890.

Sir,

IN reply to your despatch No. 1, Treaty, of the 5th instant, inquiring whether Miltiades Melachrino, a naturalized British subject of Greek origin, born at Constantinople, is entitled to protection at Cairo as a British subject, I am directed by the Marquis of Salisbury to inform you that the instructions with reference to Mr. Melachrino's case contained in the last paragraph of the despatch from this Office No. 2 of the 23rd January last should have been worded as follows:—

"As regards the fourth one [naturalized British subject], who, although born at Constantinople, was of Greek origin, he is entitled to protection in Cairo as a British subject, if he is not a Turkish subject by Ottoman law."

You will accordingly deal with Mr. Melachrino's case in accordance with the instructions as now amended, and you should make a note in the margin of the despatch from this Office of the 23rd January that the directions contained in the last paragraph were amended by Foreign Office despatch No. 2, Treaty, of the 21st April.

I am, at the same time, to inform you that the instructions contained in the above-mentioned despatch with reference to the status of children of naturalized British subjects born out of Her Majesty's dominions apply only to the children of persons naturalized under "The Naturalization Act, 1870" (33 Vict., cap. 14), and that children of naturalized British subjects whose certificates of naturalization were issued under the Naturalization Act of 1844, should not, if born abroad, be registered as British subjects.

I am also to state, for your guidance in dealing with the registration of British-protected persons, that natives of Cyprus, though protected out of the Ottoman dominions, are not to be considered British-protected persons within those dominions.

I am, &c.

(Signed) T. H. SANDERSON.

These Regulations prescribe "that all those Russian Jews who were originally registered as heads of families in or previous to the year 1849, and who have since continued to register themselves as British-protected persons, shall continue to enjoy British protection during their lives;" this protection is also to be extended to their widows, their male children until they have attained the age of 20, and their female children until they marry. The same privileges to be extended to "all actual holders of certificates who shall be over 50 years of age on the 1st January, 1885, and who received British protection prior to the 1st January, 1880. All those persons, whether male or female, who were registered in or prior to the year 1849, but who were not then heads of families, and all persons registered between January 1850 and the 1st January, 1880, who shall be over 45 years of age on the 1st January, 1885, shall continue to enjoy British protection during their lives. All Russian Jews not coming under any of the above categories shall receive notice that protection will be withdrawn from them after five years from the 1st January, 1885. In future no person hitherto unprotected shall be admitted to British protection without the previously obtained sanction of Her Majesty's Ambassador, to be applied for by the Superintending Consul."

I have now to call your attention to the case of Youssef Meyer Harari, whose name appears in the Return of "British Subjects," and who is stated to have been registered at Cairo in virtue of a certificate granted to him at Damascus on the 28th January, 1886.

Certificates were formerly granted to various members of the Harari family resident in different parts of the Ottoman dominions, but the question of the nationality, and consequently of the amount of protection (if any) to be afforded to this family within those dominions, has formed the subject of considerable correspondence; and at the close of last year Lord Salisbury was advised by the Law Officers of the Crown that Her Majesty's Government would not be justified in recognizing and pressing upon the Turkish Government the claim of the various members of the Harari family to British nationality except in the case of Ezra Harari. Mr. Youssef Meyer Harari's name should therefore be withdrawn from the list of "British Subjects" (and, in any case, from that of "British-protected Persons") unless he is able to produce positive proof that he or his father was born in some part of the British dominions. A declaration to that effect made by a third party would, however, not be deemed sufficient proof of the fact.

In the Return entitled "British-protected Subjects" (which should, however, more correctly be described as a Return of "British-protected Persons," and should not contain the names of any British subjects as distinguished from Turkish or other foreign subjects under British protection) the names of three members of the Mesciaca (Michaka) family appear.

The claim to British protection made by this family, which is of Ionian origin, was under consideration a short time ago, and it was decided that they could not be protected.*

The case is known to Her Majesty's Agency at Cairo, where you can procure further particulars.

With regard to the four naturalized British subjects inscribed on the Register, one appears to have been born at Fez, in Morocco, two in Greece, and the fourth at Constantinople.

It is not stated where they were naturalized.

If naturalized in a British Colony, their British nationality would not extend beyond the limits of that Colony.

If naturalized in the United Kingdom, they would be entitled to British protection everywhere, save in any country of which they were subjects or citizens previous to their naturalization, and even there, if they should have legally divested themselves of their nationality as subjects or citizens of such country.

The three of them who were not born in the Ottoman dominions are therefore clearly entitled to protection as British subjects when in Cairo, if they were naturalized in the United Kingdom, but not otherwise.

As regards the fourth one, who, having been born at Constantinople, is of Ottoman origin, he is only entitled to protection as a British subject in Cairo provided he has, by operation of Ottoman law, ceased to be a Turkish subject.

I am, &c.

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* Memorandum, September 14; to Mesciaca family, September 25, 1889.